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Hot Topic: The Relocation of City Utilities on a State Highway Project (2009)

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THE RELOCATION OF CITY UTILITIES ON A STATE HIGHWAY PROJECT

Ron Darden, Municipal Management Consultant

The Tennessee Department of Transportation (TDOT) is now authorized to enter into agreements with cities for the relocation of water and sewer piping and appurtenances at TDOT expense. The specific regulations can be found in T.C.A. § 54-5-854.

Before beginning construction, TDOT identifies and notifies the owners of utility facilities that occupy or may occupy the rights of way. When notified, the city has 60 days to inform the department whether or not it is the owner of the utilities. The failure to respond creates a presumption that the city is not the owner, and TDOT and its contractor then may undertake construction without liability to the city for damages to the city's utility facilities. (See T.C.A. § 54-5-853. Notification of owners-Response-Failure to Reply.)

Typically, when TDOT is informed of the existence of utility facilities it provides the city with project drawings and requests that the city mark the

approximate location of water and sewer mains and appurtenances on the project drawings, along with estimated costs for relocation and a time schedule for their relocation. State statutes allow cities a maximum of 120 days to mark the drawings and develop a time schedule for relocation. A 45-day extension of time for review may be granted for some circumstances. The 120-day deadline is strictly enforced by TDOT. If your city does not meet the deadline, it must bear the cost for relocating city utilities from the state rights of way. Some cities already have missed their deadlines and will bear the entire cost. (See T.C.A. § 54-5-854.)

MTAS recommends that cities establish a reliable method for receiving project drawings and notices and complying strictly with the 120-day deadline. Refer the drawings to your consulting engineer and do not file them away in a file cabinet or drawer. Failure to meet the deadline may unnecessarily cost your city millions of dollars in utility relocation expense.

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The Municipal Technical Advisory Service (MTAS) is a statewide agency of the University of Tennessee Institute for Public Service. MTAS operates in cooperation with the Tennessee Municipal League to provide technical assistance services to officials of Tennessee's incorporated municipalities. Assistance is offered in areas such as accounting, administration, finance, public works, ordinance codification, and water and wastewater management.

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